

I. Description of Claim Amendment

Independent claim 6 is amended to add the feature of two fastening devices, as also recited in claim 1.

II. October 12, 1999 Information Disclosure Statement

The Office Action asserts that JP 6-313257 was not considered because the reference was not in the file. This assertion is respectfully traversed.

JP 6-313257 was filed with the instant application on October 12, 1999, as evidenced by the attached Filing Receipt, and thus must be considered. A copy of JP 6-313257 with English Abstract and PTO Form 1449 filed with the October 12, 1999 Information Disclosure Statement is attached for the Examiner's convenience. Consideration of this reference and acknowledgement that the reference has been considered is thus respectfully requested.

III. The Abstract Satisfies All Formal Requirements

The Office Action objects to the Abstract. Specifically, the Office Action asserts that the Abstract should be limited to no more than 150 words. By this Amendment, the Abstract is amended accordingly. Withdrawal of the objection is thus respectfully requested.

IV. The Reissue Oath Satisfies the Requirements of 37 C.F.R. §1.175

The Office asserts that the reissue declaration filed on October 12, 1999 was defective, under 37 C.F.R. §1.175 and MPEP §1414, because Applicants identified a specific error in claim 1, but did not present a change for correcting claim 1 or correcting any of the patented claims. The Office Action further asserts that the newly presented claims do not correct the noted error of claim 1. The Office Action further asserts that Applicants possibly meant to note a specific error in the declaration concerning Application No. 08/605,794, instead of the noted error of claim 1 in Application No. 08/668,471. These assertions are respectfully traversed.

37 C.F.R. §1.175 requires that the reissue oath must state that: 1) the Applicant believes that the original patent to be wholly or partly inoperative or invalid by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than the patentee had the right to claim in the patent, stating at least one error being relied upon as the basis for reissue; and 2) all errors being corrected in the reissue application up to the time of filing of the oath or declaration under this paragraph arose without any deceptive intention on the part of the Applicant. However, the corresponding corrective action, which has been taken to correct the original patent, need not be identified in the oath/declaration. See MPEP §1414.

The reissue declaration filed with the instant application satisfies the requirements of 37 C.F.R. §1.175. First, the reissue declaration filed with the instant application identifies an error that the original claims are unduly limited and may not provide an adequate scope of protection. The reissue declaration further identifies a specific error with regard to claim 1, that claim 1 does not provide an adequate scope of protection because the recitation of numerous extraneous elements, for example, at least a pressing member and two fastening devices. Second, the reissue declaration asserts that the declaration arose without any deceptive intent on our part. Furthermore, as discussed above, the corresponding corrective action that has been taken to correct the original patent need not be identified in the oath/declaration. See MPEP §1414. Thus, the reissue declaration satisfies the requirements of 37 C.F.R. §1.175. Reconsideration of the reissue declaration is thus respectfully requested.

V. The Claims Meet Patent Office Requirements

The Office Action rejects claims 1-33 based upon the defective reissue declaration under 35 U.S.C. §251. This rejection is respectfully traversed.

As discussed above, the reissue declaration satisfies 37 C.F.R. §1.175. Thus, the rejection of claims 1-33 must be withdrawn. Withdrawal of the rejection is thus respectfully requested.

VI. The Claims Define Patentable Subject Matter

A. §102(b) Rejection of Claims 1, 5-8 and 22

The Office Action rejects claims 1, 5-8 and 22 under 35 U.S.C. §102(b) over U.S. Patent No. 5,553,560 to Tajima. This rejection is respectfully traversed.

Claims 1, 5-8 and 22 are not anticipated by Tajima. First, Tajima does not disclose "two fastening devices one of which is provided between said main frame member and a corresponding one of opposite ends of said pressing member and the other which is provided between the main frame member and the other end of the pressing member, said two fastening devices cooperating with each other to fasten the pressing member to the main frame member to hold the headgear between the pressing member and the main frame member," as recited in claim 1, and as similarly recited in claim 6. That is, Tajima does not disclose the claimed two fastening devices that are provided between the main frame member and a corresponding end of the pressing member.

Tajima, instead, discloses a pressing member 150 that has one end that is pivotally supported by a bar 143 via a connecting member 158. The connecting member 158 is not a fastening member, but is actually a member that connects the connecting member to the member 140. See, e.g., Tajima, col.12, lines 31-43, and Fig. 24. That is, Tajima only discloses a hinge device and a fastening device. Thus, Tajima does not disclose the claimed two fastening devices.

Second, Tajima does not disclose "the main frame member having a generally cylindrical shape and including an outer circumferential surface whose center angle is not smaller than 220 degrees; a pressing member which externally presses the headgear set on

said main frame member such that the pressing member presses the headgear against a cooperative portion of said outer circumferential surface of the main frame member, said cooperative portion having a center angle not smaller than 200 degrees ...," as recited in claim 22. Nowhere does Tajima teach or suggest this feature.

Thus, claims 1, 6 and 22 are patentable over Tajima. Further, claim 5, which depends from claim 1, and claims 7 and 8, which depend from claim 6, are also patentable over Tajima for at least the reasons discussed with respect to claims 1 and 6, as well as the additional features recited therein. Withdrawal of the rejection is thus respectfully requested.

B. §102(b) Rejection of Claim 14

The Office Action rejects claim 14 under 35 U.S.C. §102(b) over U.S. Patent No. 4,998,964 to Golia. This rejection is respectfully traversed.

Claim 14 is not anticipated by Golia. Golia does not disclose "two fastening devices which fasten opposite end portions of said pressing members to said main frame member, respectively,...," as recited in claim 14. That is, Golia does not disclose the claimed two fastening devices that fasten the pressing member to the main frame member.

Golia, instead, discloses that the clamp 84 is attached to the clamping element 80 and toggle arm 82 of the large gear 64. That is, clamp 84 of Golia does not attach to frame 72, but, instead, clamp 84 is merely aligned with the apertures 74 of the frame 72. See, e.g., Golia, col.3, line 57 - col.4, line 5, and Fig. 2. Thus, Golia does not disclose the claimed two fastening devices.

Thus, claim 14 is patentable over Golia. Withdrawal of the rejection is thus respectfully requested.

C. §102(b) Rejection of Claims 23-25 and 27-30

The Office Action rejects claims 23-25 and 27-30 under 35 U.S.C. §102(b) over JP 06-257057 to Shibata. This rejection is respectfully traversed.

Claims 23-25 and 27-30 are not anticipated by Shibata. Shibata does not disclose "a supporting member selectively attachable to the base for selectively supporting the headgear holder; and a frame connectable to the supporting member for insertion into the internal space of the headgear when the headgear is supported by the headgear holder, a position of the frame relative to the supporting member being changeable," as recited in claim 23. That is, Shibata does not disclose the claimed frame for insertion into the internal space of the headgear that is moved relative to the supporting member.

Shibata, instead, only shows a position of the support member relative to the base material being changeable. See, e.g., Shibata, Fig. 13 and paragraph [0016]. That is, the support member pivots with pivot member 101 in relation to the base material 56e to move the support member downward or upward. Thus, Shibata does not disclose the claimed frame and supporting member.

Thus, claim 23 is patentable over Shibata. Further, claims 24, 25, and 27-30, which depend from claim 23, are also patentable over Shibata for at least the reasons discussed with respect to claim 23, as well as the additional features recited therein. Withdrawal of the rejection is thus respectfully requested.

D. §103 (a) Rejection of Claims 2, 3, 15 and 16

The Office Action rejects claims 2, 3, 15 and 16 under 35 U.S.C. §103(a) over Tajima in view of Golia. This rejection is respectfully traversed.

Claims 2, 3, 15 and 16 would not have been rendered obvious by Tajima in view of Golia. Golia does not remedy the deficiencies of Tajima discussed with respect to claim 1. Further, Tajima does not remedy the deficiencies of Golia discussed with respect to claim 14. Claims 2 and 3 depend from claim 1, and claims 15 and 16 depend from claim 14. Thus, claims 2, 3, 15 and 16 are patentable over Tajima and Golia for at least the reasons discussed

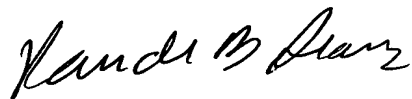
with respect to claims 1 and 14, as well as the additional features recited therein. Withdrawal of the rejection is thus respectfully requested.

VII. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachments:

October 12, 1999 Filing Receipt
PTO Form 1449 filed October 12, 1999
JP 6-313257 w/English Abstract
Amended Abstract

Date: December 2, 2005

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